

STATE OF NEW MEXICO  
COUNTY OF MCKINLEY

ANIMAL CONTROL ORDINANCE

MCKINLEY COUNTY  
ORDINANCE NO. JAN-17-001

Be it ordained by the Board of Commissioners of McKinley County, New Mexico that the following constitutes and is adopted as the ANIMAL CONTROL ORDINANCE for McKinley County.

**INDEX**

- SECTION 1: TITLE AND PURPOSE:
- SECTION 2: DEFINITIONS:
- SECTION 3: RULES AND REGULATIONS:
- SECTION 4: PROCEDURES FOR COMPLAINTS:
- SECTION 5: PROCEDURE FOR THE GALLUP-MCKINLEY COUNTY ANIMAL CONTROL AUTHORITY AND ANIMAL CONTROL CONTROL OFFICERS:
- SECTION 6: WAIVER:
- SECTION 7: FEES, PERMITS AND LICENSES:
- SECTION 8: ANIMAL PROTECTION FACILITIES:
- SECTION 9: IMPOUNDING / RETAINING / ADOPTING ANIMALS:
- SECTION 10: SEIZURE AND DISPOSITION OF ANIMALS:
- SECTION 11: RETENTION OF STRAYS OR OWNER SURRENDERED ANIMALS:
- SECTION 12: GENERAL PROVISIONS:
- SECTION 13: SHELTER-REFUGE-PROFESSIONAL ANIMAL PERMIT AND HOBBY BREEDER PERMIT:
- SECTION 14: PET STORE:
- SECTION 15: GUARD DOG SITE:
- SECTION 16: LITTER PERMIT:
- SECTION 17: REDUCED COST SPAY AND NEUTER PROGRAM:
- SECTION 18: DISCOUNT SPAY OR NEUTER CERTIFICATES:
- SECTION 19: ADOPTION OF DOGS AND CATS:
- SECTION 20: ANIMALS BITING PERSONS:
- SECTION 21: ANIMAL LICENSE:
- SECTION 22: NUMBER OF ANIMALS ALLOWED:
- SECTION 23: MULTIPLE ANIMAL SITE PERMIT:
- SECTION 24: RESTRAINT OF DOGS:
- SECTION 25: VACCINATIONS:
- SECTION 26: ABANDONMENT:

DOCH 380514

04/25/2017 02:31 PM Page 1 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



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SECTION 27: ADMISSION OF QUALIFIED ASSISTANCE ANIMALS TO PUBLIC PLACES:  
SECTION 28: ANIMALS DISTURBING THE PEACE:  
SECTION 29: ANIMALS KILLING OR INJURING LIVESTOCK OR PROTECTED WILDLIFE:  
SECTION 30: DOGS ON UNENCLOSED PROPERTIES:  
SECTION 31: ANIMAL POISONING:  
SECTION 32: DOGS-RUNNING AT LARGE:  
SECTION 33: INJURY TO ANIMALS BY MOTORISTS:  
SECTION 34: ANIMALS TRANSPORTED IN VEHICLES:  
SECTION 35: ANIMAL WASTE:  
SECTION 36: BREAKING INTO ANIMAL PROTECTION FACILITIES OR VEHICLES:  
SECTION 37: CARE AND MAINTENANCE:  
SECTION 38: CONFINEMENT OF FEMALE DOGS OR CATS IN MATING SEASON:  
SECTION 39: CONCEALMENT OF ANIMAL:  
SECTION 40: FIGHTS:  
SECTION 41: FOWL; IMPOUNDING OR CRATING:  
SECTION 42: INTERFERENCE WITH THE ANIMAL CONTROL OFFICER IN THE PERFORMANCE OF HIS DUTIES:  
SECTION 43: KEEPING A SERIOUSLY SICK OR INJURED ANIMAL:  
SECTION 44: *INTENTIONALLY LEFT BLANK*:  
SECTION 45: SALE AND DISPLAY OF ANIMALS:  
SECTION 46: STERILIZATION AGREEMENTS/CONTRACTS:  
SECTION 47: UNLAWFUL USE OF RABIES TAG:  
SECTION 48: IMPROPER DISPOSAL OF ANIMALS:  
SECTION 49: VICIOUS OR DANGEROUS ANIMALS:  
SECTION 50: DANGEROUS DOG:  
    SECTION 50.1: SHORT TITLE:  
    SECTION 50.2: DEFINITIONS:  
    SECTION 50.3: EXCEPTIONS:  
    SECTION 50.4: SEIZURE OF DOG; PETITION TO COURT:  
    SECTION 50.5: REGISTRATION AND HANDLING REQUIREMENTS FOR DANGEROUS AND POTENTIALLY DANGEROUS DOGS:  
    SECTION 50-6: PROHIBITED ACTS; PENALTIES:  
SECTION 51: WILD ANIMALS; CANINE HYBRIDS; VIETNAMESE POTBELLED PIGS:  
    SECTION 51.1: WILD ANIMALS:  
    SECTION 51.2: CANINE HYBRIDS:  
  
SECTION 52: PENALTIES:  
    SECTION 52-1: PENALTY:  
    SECTION 52-2: SUSPENSIONS, REVOCATIONS OF PERMITS:  
    SECTION 52-3: APPEAL PROCEDURES FOR PERMIT DENIAL, SUSPENSION OR REVOCATION:  
53: SEVERABILITY CLAUSE AND REPEALOR:  
SECTION 1: TITLE AND PURPOSE:

DOC# 380514

04/25/2017 02:31 PM Page: 2 of 37  
OR R \$0.00 H. K. Becenti McKinley County



- 1.1 TITLE: This Ordinance shall be known and may be cited as the MCKINLEY COUNTY ANIMAL ORDINANCE.
- 1.2 PURPOSE: It is the intent of the Board of County Commissioners that enactment of this Ordinance No. JAN-17-001 will, within the County's police power jurisdiction: protect animals from neglect and abuse; protect residents from annoyance and injury; encourage responsible ownership of animals as pets; will assist in providing housing for animals in an adoption center; and, will partially finance the animal control division's functions of adopting, housing, licensing, enforcement and recovery. It is the intent of McKinley County through the Gallup-McKinley Animal Control Authority to organize and utilize advisory groups to assist with improving public awareness about subjects pertaining to the enactment of this Ordinance No. JAN-17-001.

## SECTION 2: DEFINITIONS:

For the purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- 2.1 ABANDON: To leave an animal for more than twenty four (24) hours without making effective provisions for its proper feeding and care, including animals left outside the animal control facility.
- 2.2 ANIMAL: Any vertebrate member of the animal kingdom except humans; and, excluding livestock.
- 2.3 ANIMAL FIGHTING PARAPHERNALIA: Equipment that any reasonable person would ascertain is used for animal fighting purposes which includes, but is not limited to:
  - A. Instruments designed to be attached to the leg of a bird, such as boxing gloves, knife, gaff, or other sharp instrument;
  - B. Items to train and condition animals to fight including, but not limited to, hides or other material used as hanging devices to strengthen and/or condition dogs, wooden sticks or handles used to pry open dog's jaws, performance enhancing drugs or substances, or food or water additives; and
  - C. The presence of any animal that appears to be a fighting animal alone or together with animals suspected of being used as bait animals including, but not limited to, rabbits, cats, and other dogs.
- 2.4 ANIMAL CONTROL: The staff, facility, programs, kennels, lot, premises, and buildings of The Gallup-McKinley Animal Control Authority.
- 2.5 ANIMAL CONTROL OFFICER: Employee(s) of the Gallup-McKinley Animal Control Authority-- animal control officer or director.
- 2.6 BAIT ANIMAL: An animal used to train and/or condition other animals to fight and includes, but is not limited to, dogs, cats, and rabbits exposed to attack by other animals used or trained to be used in fighting or to make the attacking animal more confident and aggressive.
- 2.7 BITE: An actual puncture or tear of the skin inflicted by the teeth of an animal.
- 2.8 BONA FIDE ANIMAL SHOW: Includes events sanctioned by organizations such as the American Kennel Club (AKC) or North American Dog Agility Council (NADAC), generally organized by local

DOC# 380514

04/25/2017 02:31 PM Page: 3 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



- clubs, and including conformation events or performance events such as obedience, agility, and tracking.
- 2.9 BREEDING: Permitting, either intentionally or unintentionally, a female dog or cat to produce offspring.
- 2.10 CANINE HYBRID:
- A. Any canine which has or had a pure wolf or pure coyote as a parent or grandparent; or,
  - B. An animal represented by its owner to an animal control officer, law enforcement officer, or to a veterinarian to be the offspring, cross, mix, or hybrid of a wolf or coyote within the preceding two (2) generations.
- 2.11 COUNTY: The area within the boundaries of McKinley County over which the County has police power jurisdiction, including privately owned land, excluding the area within the police power jurisdiction of the United States government or any agency thereof.
- 2.12 COUNTY MANAGER: The county manager of McKinley County or his designated representative(s).
- 2.13 CONFINEMENT: Detainment or isolation of an animal.
- 2.14 COMMISSION: The Board of County Commissioners of McKinley County.
- 2.15 DANGEROUS ANIMAL: Any of the following:
- A. An animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or another animal which is off the property of the owner of the animal in question.
  - B. An animal which, when unprovoked, injures a person in a manner which does not result in muscle tears or disfiguring lacerations, or require extensive corrective or cosmetic surgery.
  - C. An animal which, because of its poisonous sting or bite, would constitute a significant hazard to the public.
  - D. See also, NMSA 1978 §§ 77-1A-1 *et. seq.*
- 2.16 DESIGNEE OR DESIGNATED REPRESENTATIVE: The **GALLUP-McKINLEY COUNTY ANIMAL CONTROL AUTHORITY** its Board or the Director or appropriate staff.
- 2.17 ENCLOSED: A parcel of land completely surrounded at the perimeter by a wall or fence of sufficient height and strength to contain animals within, or by an electric or invisible fencing that has been approved by the County Manager or, Designated Representative.
- 2.18 ESTABLISHMENT: A place of business together with its grounds and equipment.
- 2.19 FOWL: Turkeys, geese, ducks, guineas, chickens and all other domesticated fowl.
- 2.20 GROOMING PARLOR: An establishment or part thereof maintained for the purposes of performing cosmetological services for animals.
- 2.21 GUARD DOG: A dog that is used to protect a commercial property, but excludes a dog used exclusively to guard livestock.
- 2.22 HOBBY BREEDER SITE: A noncommercial animal facility or premises operated by a person involved in voluntary or involuntary breeding of dogs or cats and the resultant offspring are not sold for resale to commercial outlets or for the purpose of research, testing, or laboratory experimentation.
- 2.23 HOUSEHOLD: The collection of individuals, related or not, who reside at one street address.



- 2.24 KENNEL: A commercial establishment operating for intended profit where dogs or cats are boarded, kept, or maintained.
- 2.25 KENNEL AREA: A secure space within which an animal is housed that is of sufficient height and strength to contain the animal within and provide sufficient room for the animal to comfortably move around within the structure. This includes all area available to the animal during a twenty four (24) hour period.
- 2.26 LICENSED VETERINARIAN: An individual with a doctor of veterinary medicine degree who is licensed to practice in the state.
- 2.27 LIVESTOCK: Horses, cattle, pigs, sheep, goats, rabbits, fowl, or any other domestic animals typically used in the production of food, fiber, or other products or activities defined as agricultural.
- 2.28 LOT: A parcel or plot of ground with common ownership. To be one lot all the ground contained within said plot or parcel must be contiguous.
- 2.29 MULTIPLE ANIMAL SITE PERMIT: Permit issued to an individual/household who does not qualify as a shelter, refuge, professional animal establishment, or hobby breeder but who wishes to keep dogs or cats in excess of the maximum allowed under this Ordinance.
- 2.30 OWNER: A person eighteen (18) years of age or older or the parent or guardian of a person under eighteen (18) years of age who owns, harbors, keeps an animal, has one in his care, or permits an animal to remain on or about the premises owned or controlled by him.
- 2.31 PERMITTED PREMISES: The establishment, household, property or site for which a valid permit has been issued by the city for use as a kennel, grooming parlor, pet shop, refuge, shelter, hobby breeder site or multiple animal site.
- 2.32 PERSON: An individual, household, firm, partnership, corporation, company, society, association or legal entity, and every officer, agent or employee thereof.
- 2.33 PET SHOP: Any premises, or part thereof, open to the public which engages in the purchase, sale, exchange or hire of animals of any type, except the term shall not apply to premises used exclusively for the sale of livestock.
- 2.34 PREMISES: A parcel of land and the structures thereon.
- 2.35 PROFESSIONAL ANIMAL ESTABLISHMENT: Any kennel, grooming parlor, or pet shop, with the exception of state inspected veterinary hospitals and federally inspected laboratory facilities and zoos.
- 2.36 QUALIFIED SERVICE ANIMAL:
  - a. "qualified service animal" means any qualified service dog or qualified service miniature horse that has been or is being trained to provide assistance to an individual with a disability; but "qualified service animal" does not include a pet, an emotional support animal, a comfort animal or a therapy animal;
  - b. "qualified service miniature horse" means a miniature horse that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities.
- 2.37 QUARANTINE: Detention or isolation of an animal in order to observe for rabies or other communicable diseases.

DOCH 380514

04/25/2017 02:31 PM Page 5 of 37  
 OR R: \$0.00 H. K. Becenti, McKinley County



- 2.38 REFUGE: An establishment owned or operated by a nonprofit organization whose sole function is to aid and comfort more than four (4) animals, and where animals are not bred.
- 2.39 RESCUE ANIMAL: Animals that are rescued by a bona fide humane society or other recognized rescue organization or by an individual who received prior written recognition by the Gallup-McKinley County Animal Control Authority to rescue and temporarily care for animals in order to place them into permanent homes.
- 2.40 RESIDENTIAL NEIGHBORHOOD/COMMUNITY: An area where at least ninety percent (90%) of the lots in the block containing the subject lot and the block facing the subject lot are single- or multi-family residences or vacant; and, includes subdivisions, Mutual Domestic Water Associations, and Water and Sanitation Districts.
- 2.41 SHELTER: A nonprofit animal facility operated by an individual or group or member of a recognized animal humane association for the purpose of bringing aid and comfort to dogs or cats, and where animals are not bred.
- 2.42 SHOW ANIMAL: A dog or cat, which is registered with a recognized registry organization, or is a member of a breed which is not eligible to be registered if that breed has been approved by the Gallup-McKinley County Animal Control Authority and which is involved in bona fide animal shows.
- 2.43 STERILIZED: To be rendered permanently incapable of reproduction.
- 2.44 STRAY: A dog, canine hybrid found running at large.
- 2.45 DIRECTOR: The director of staff of the Gallup-McKinley County Animal Control Authority.
- 2.46 TO RUN OR RUNNING AT LARGE: Any dog free from physical restraint beyond the boundaries of the owner's premises.
- 2.47 TRAP, NEUTER AND RETURN (TNR): The practice of humanely trapping unowned cats, having them evaluated, vaccinated, sterilized and ear tipped by a veterinarian and returning them to the location where they were trapped.
- 2.48 TROLLEY: A cable strung between two (2) fixed and stable points, to which a dog on a tether is attached, allowing for freedom of movement.
- 2.49 VACCINATION: Protection provided against rabies by inoculation with a vaccine as required by New Mexico Statutes Annotated 1978, section 77-1-3 (1979).
- 2.50 VICIOUS ANIMAL: An animal which kills or seriously injures a person or domesticated animal; resulting in muscle tears or disfiguring lacerations, requiring multiple sutures or extensive corrective or cosmetic surgery. Vicious animal does not include an animal which bites, attacks or injures a person or animal that is unlawfully upon its owner's premises. The provocation of an animal by a person is an affirmative defense to a charge of keeping or harboring a vicious animal.
- 2.51 WEATHERPROOF ENCLOSURE: An enclosure designed to protect the animal against disagreeable or harmful atmospheric conditions, i.e., storm, rain, snow, etc.

**SECTION 3: RULES AND REGULATIONS:**

Reasonable rules, regulations, and interpretive directives may be prescribed in writing by the Director of the Gallup-McKinley County Animal Control Authority to carry out the intent and purpose of this Ordinance, pursuant to standards created by this Ordinance. The Director of the Gallup-McKinley County Animal Control Authority may delegate such powers to the duly appointed animal control officers



as he/she may deem expedient. An animal control officer employed by the Gallup-McKinley County Animal Control Authority shall wear a uniform and shall carry appropriate identification. Identification is to be surrendered to the Gallup-McKinley County Animal Control Authority upon cessation of employment.**SECTION 4: PROCEDURES FOR COMPLAINTS:**

- 4.1 A complaint alleging any violation of this chapter may be filed with the Gallup-McKinley County Animal Control Authority by a person who has personal knowledge of such violation and who can identify the owner of the animal involved or the premises where the animal is located. The Gallup-McKinley County Animal Control Authority may require the complainant to provide his name and address and swear to and affirm the complaint.
- 4.2 It is unlawful for any person to intentionally make a report to the Gallup-McKinley County Animal Control Authority, which that person knows to be false at the time of making it, alleging a violation by another person of any violation of this chapter.

**SECTION 5: PROCEDURE FOR THE GALLUP-MCKINLEY COUNTY ANIMAL CONTROL AUTHORITY AND ANIMAL CONTROL OFFICERS:**

- 5.1 The Gallup-McKinley County Animal Control Authority, director and animal control officers shall have the authority, and are directed to investigate upon probable cause, any alleged violation of this Ordinance or of any law of the state of New Mexico relating to the same subject matter as herein contained.
- 5.2 Animal control officers are authorized to inspect premises as necessary to perform their duties. If the owner or occupant of the premises objects to inspection, a warrant shall be obtained from a court of competent jurisdiction prior to inspection. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection or investigation.
- 5.3 Whenever the Gallup-McKinley County Animal Control Authority has probable cause to believe that a person has violated this Ordinance, the animal control officer may prepare a criminal complaint to be filed with the Magistrate Court or other appropriate court having jurisdiction or prepare a citation for the alleged violator to appear in court. The citation shall contain the name, address and telephone number, if known, of the person violating this Ordinance, the driver's license number of such violator, if known, the section(s) of this Ordinance allegedly violated, and the date and place when and where such person allegedly committed the violation, and the location where such person shall appear in court and the deadline for appearance. The animal control officer shall present the citation to the person he has probable cause to believe violated the section(s) of this Ordinance in order to secure the alleged violator's written promise to appear in court by having the alleged violator sign a copy of the citation. The animal control officer shall deliver a copy of the citation to the person promising to appear.
- 5.4 If the alleged violator refuses to give his written promise to appear, the animal control officer shall file a criminal complaint with the Magistrate Court for McKinley County.

DOCH 380514

04/25/2017 02:31 PM Page: 7 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



5.5 Neither the Gallup-McKinley County Animal Control Authority nor the director nor the animal control officers shall have the authority to dismiss a citation.

**SECTION 6: WAIVER:**

6.1 The Gallup-McKinley County Animal Control Authority shall have the authority to grant waivers.

6.2 Any person seeking a waiver pursuant to this chapter shall file a written application with the Gallup-McKinley County Animal Control Authority. The written application shall contain information which describes the ordinance section for which a waiver is requested and the reason for the waiver.

6.3 Any person seeking a waiver shall indicate in his application to the Gallup-McKinley County Animal Control Authority the specific reason why he should not be required to meet the established ordinance criteria. The applicant shall also include a written statement that he has personally contacted all residents and owners of properties within four hundred feet (400') of the property in question and none oppose the waiver being requested.

6.4 In determining whether to grant or deny the application, the Gallup-McKinley County Animal Control Authority shall balance the hardship to the applicant, the community and other persons of not granting the waiver against the potential adverse impact on the animals and residents affected.

6.5 The Director of the Gallup-McKinley County Animal Control Authority shall make a recommendation to the Gallup-McKinley County Animal Control Authority Board and seek final approval or denial on any waver.

6.6 Waivers that are approved shall be granted by notice to the applicant and all residents and owners of properties within four hundred feet (400') and may include all necessary conditions, including time limits, on the permitted activity. The waiver shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the waiver shall terminate it and subject the person holding it to those provisions of this Ordinance No. JAN-17-001.

**SECTION 7: FEES, PERMITS AND LICENSES:**

7.1 Fees for licenses, services and permits required pursuant to this Ordinance shall be established through resolution adopted by the County Commission without the need to amend this Ordinance.

7.2 A permit is not a property right.

7.3 The Gallup-McKinley County Animal Control Authority Board can refuse to issue, revoke, suspend or modify permits and impose conditions or limits upon the issuance of permits, including the declaration of moratoria regarding issuance of permits.

7.4 Permits expire on December 31 of each year, unless otherwise specifically provided in the permit; or as provided in this Ordinance.

**DOC# 380514**

04/25/2017 02:31 PM Page: 8 of 37  
OR R: \$0.00 H. K. Becenti, McKinley County





- 7.5 Permit fees paid after July 1 in initial year of purchase will be prorated by the month. Permit renewals shall not be prorated.
- 7.6 A late fee shall be charged for all permit renewals after January 31 of each year.
- 7.8 Permits are not refundable or transferable except as provided for in this Ordinance No. JAN-17-001.

#### **SECTION 8: ANIMAL PROTECTION FACILITIES:**

- 8.1 The Gallup-McKinley County Animal Control Authority Board pursuant to the JPA has the responsibility to establish, authorize or use animal protection facilities which shall be located in such numbers and at such sites as shall be designated by the Gallup-McKinley County Animal Control Authority Board.
- 8.2 The animal protection facilities shall be operated to provide service to the general public during the hours set by the Gallup-McKinley County Animal Control Authority in consultation with the Gallup-McKinley County Animal Control Authority Boards fiscal agent.
- 8.3 The animal protection facilities shall comport with NMSA 1978 §§ 77-1B-1 *et. seq.* the "Animal Sheltering Act".

#### **SECTION 9: IMPOUNDING / RETURNING / ADOPTING ANIMALS:**

- 9.1 An animal control officer may take up and impound in any designated animal protection facility stray animals kept or maintained contrary to the requirements of this code; except that in the County, livestock is not included herein and is governed by the State Livestock Code NMSA 1978 §§ 77-2-1 *et. seq.*
- 9.2 The animal shall be confined in accordance with this Ordinance No. JAN-17-001. [See also: NMSA 1978 §§ 77-1-1 *et. seq.*; §§ 77-1A-1 *et. seq.*; and, §§ 77-1B-1 *et. seq.*].
- 9.3 The owner shall be responsible for all impound fees, boarding fees and other costs whether or not the animal is reclaimed.
- 9.4 Reclaim of animal and payment of fees or presentment of valid permit does not waive prosecution for violations under this Ordinance No. JAN-17-001.
- 9.5 The owner shall be required to pay impound fees as set by resolution of The Gallup-McKinley County Animal Control Authority Board from time to time to reclaim an animal.
- 9.6 This subsection intentionally left blank to coordinate with other similar ordinance numbering systems
- 9.7 Owner must provide proof that they possess a current County license (or proof of non-residency) and rabies vaccination for the animal.

DOC# 380514

04/25/2017 02:31 PM Page 9 of 37  
OR R 30.00 H. K. Becenti, McKinley County



9.8 A sterilized dog with current rabies vaccination, current city or county license, may be reclaimed without owner being cited for running at large. Owner shall be responsible for impound and boarding fees.

9.9 Any animal which is not reclaimed within five (5) days becomes the property of the Gallup-McKinley County Animal Control Authority Board and may be placed for adoption or humanely destroyed in accordance with Gallup-McKinley County Animal Control Authority Board policy and procedures.

9.10 The Gallup-McKinley County Animal Control Authority shall maintain, for a reasonable period of time or as required by law, a record of all animals impounded. At least the following information shall be included:

9.10.1. Complete description of the animal;

9.10.2. Manner and date of its acquisition;

9.10.3 Date, manner, and place of impoundment;

9.10.4 Impoundment number;

9.10.5 Date of final disposition.

9.11 Owner relinquishing an animal shall be required to complete an owner's release at the time of impoundment.

9.12 An animal control officer may take possession of a stray animal not wearing a current rabies tag, if required, who is deemed critically injured or critically ill for euthanizing.

9.13 Whenever the Gallup-McKinley County Animal Control Authority finds that any animal is or will be without adequate care because of injury, illness, incarceration or other absence of the owner or person responsible for the care of such animal, the Gallup-McKinley County Animal Control Authority may take up such animal for protective care. The owner of the animal may reclaim the animal after paying all required fees and costs imposed by the Gallup-McKinley County Animal Control Authority. If the animal is unclaimed at the end of the protective custody period, the animal will become the property of the county and may be placed for adoption, be humanely destroyed or otherwise disposed of by the county.

**SECTION 10 SEIZURE AND DISPOSITION OF ANIMALS:**

10.1 Search Warrant and Seizure of Animals without warrants: A peace officer or animal control officer who reasonably believes that the life or health of an animal is endangered due to cruel treatment may apply to the district court, or magistrate court for a warrant to search for and seize an animal or animals. An animal control officer may also seize such an animal without a warrant if the officer can do so without a breach of the peace.

**DOCH 380514**

04/25/2017 02:31 PM Page 10 of 37  
OR R: \$0.00 H. K. Becenti, McKinley County



- 10.2 Schedule of Hearing: If the court finds probable cause that the animal is being cruelly treated, the court shall issue a warrant for the seizure of the animal. The court shall also schedule a hearing on the matter as expeditiously as possible unless good cause is demonstrated by the Gallup-McKinley County Animal Control Authority.
- 10.3 Warrant Copies Provided To Owner: The officer seizing animals under the warrant shall give a copy of the affidavit for the search warrant, the search warrant, and a copy of the inventory of the animal or animals seized to the person from whose possession or premises the animals were taken.
- 10.4 Warrant Copies Posted: If the owner of the animal cannot be located or cannot be determined, a copy of the affidavit for the search warrant, the search warrant, and the inventory of the animals seized shall be conspicuously posted at the place where the animals were seized at the time the seizure occurs.
- 10.5 Notice Of Hearing: Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.
- 10.6 Examination By Licensed Veterinarian: At the option and expense of the owner, the seized animals may be examined by a licensed veterinarian of the owner's choice.
- 10.7 Findings That Animal Is Not Being Cruelly Treated: If the court finds that the seized animal is not being cruelly treated, and the animal's owner is able to adequately provide for the animal in a manner consistent with this chapter, the court shall return the animal to its owner.
- 10.8 Findings That Animal Is Being Cruelly Treated: If the court finds that the seized animal is being cruelly treated or that the animal's owner is unable to adequately provide for the animal in a manner consistent with this chapter; the court shall hold a hearing to determine the disposition of the animal.
- 10.9 Adoption or Humane Destruction of Animal: Upon conviction, the Animal Control Authority may place the animal for adoption with the any appropriate animal adoption organization or the Gallup-McKinley County Animal Control Authority animal adoption center program or provide for humane destruction of the animal.
- 10.11 Defendant's Liability Of Costs: Upon conviction, the defendant shall be liable for the cost of boarding the animal and all necessary veterinary examinations and care provided to the animal.
- 10.12 Persons Convicted Of Cruelty To Animals: Any person with a conviction for cruelty to animals cannot own, possess, harbor, keep or have custody of any animal or allow, cause, or permit any animal to be harbored or kept on his property within the police power jurisdiction of the county. Animal control officers shall immediately remove any animal found to be harbored or kept for any reason upon said person's property. A seized animal will be handled pursuant to SECTION 9, "Impounding Animals", of this Ordinance No. JAN-17-001.
- 10.13 Liability of Costs: In the absence of a conviction, the Gallup-McKinley County Animal Control Authority shall bear the cost of boarding the animal and all necessary veterinary examinations and care during the pendency of the proceedings.

DOC# 380514

04/25/2017 02:31 PM Page: 11 of 37  
OR R:30 00 H. K. Becenti, McKinley County



#### 10.14 Cruelty To Animals:

10.14.1 It is unlawful for a person to recklessly, willfully or maliciously kill, maim, disfigure or torture; beat with a stick, chain, club or other object; mutilate, burn or scald with any substance, overwork, torment, harass or otherwise cruelly set upon any animal, except that reasonable force may be used to drive off vicious, dangerous or trespassing animals.

10.14.2 It is unlawful for a person to fail to provide necessary sustenance, fail to provide necessary basic or emergency medical care, maintain an animal in an enclosed environment without adequate provisions to prevent pain or suffering, and perform procedures such as ear cropping, debarking, tail docking on an animal, or otherwise endanger an animal's wellbeing. Procedures completed by a licensed veterinarian in accordance to their standard practices shall not be considered cruelty.

#### **SECTION 11: RETENTION OF STRAYS OR OWNER SURRENDERED ANIMALS:**

11.1 No person shall, without the knowledge and consent of the owner, hold or retain possession of any animal for more than twenty four (24) hours without first reporting the possession of the animal to the Gallup-McKinley County Animal Control Authority.

11.1.1 The report shall contain the person's name and address, a true and complete statement of the circumstances under which he/she took up the animal, and the precise location where the animal is confined.

11.1.2 No person having such an animal in his possession shall refuse to immediately surrender the animal to an animal control officer upon demand.

11.1.3 Any person not notifying the Animal Control Authority as required herein and maintains possession of an animal for longer than 48 hours assumes responsibility of ownership of the animal.

11.2 Duly incorporated humane societies or the rescue arms of accredited dog and cat clubs capable of providing proper confinement, shelter, and care for stray, lost or owner surrendered animals shall be allowed to assume the care of such animals.

11.2.1. Reasonable attempts (2 attempts) shall be made to notify the owner of a stray animal wearing a rabies tag or other form of identification at the address and/or phone number on animal's ID.

11.2.2 If the owner is not located within five (5) working days the Animal Control Authority, the humane society or the rescue arm of an accredited dog and cat club or organization having possession of the animal may assume responsibility for finding the animal a new home.

#### **SECTION 12: GENERAL PROVISIONS:**

12.1 No person shall operate a hobby breeder site, shelter, refuge or professional animal establishment, without a valid permit. A person may obtain an annual permit under the following conditions:

DOC# 380514

04/25/2017 02:31 PM Page: 12 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



12.1.1 Payment of an annual permit fee at the office of the animal control division. Failure to renew the permit within thirty (30) days of the expiration date shall result in the assessment of a penalty fee in addition to the cost of the permit.

12.1.2 The permit application shall contain the following information at a minimum:

- a. Name of applicant/organization;
- b. Address of applicant/organization;
- c. Telephone number of applicant/organization;
- d. Federal tax identification number (not applicable to hobby breeder);
- e. The location where the animals will be kept;
- f. Maximum number of animals expected to be kept on site;
- g. Plot plan of location showing placement and sizing of kennel area and runs;
- h. The Animal Control Authority may require such other information as is deemed necessary in order to determine whether to approve or deny a permit under this chapter.

12.2 Upon presenting proper identification and at a reasonable hour, a representative of the animal control division shall be allowed access to any permitted premises for the purpose of inspection on an annual basis or upon reasonable notice. Permits may be suspended for failure to comply with the requirements of this Ordinance, as well as for violation of other applicable laws, regulations, and ordinances.

12.3 Kennel area facilities shall be structurally sound and constructed of nontoxic materials. Interior floors shall be smooth, easily cleanable construction and impervious to water. The premises shall be kept clean, sanitary and in good repair in a manner which will protect animals from disease and injury.

12.4 Animals maintained in pens, cages or runs for periods exceeding twenty four (24) hours shall be provided with adequate space to prevent overcrowding and to maintain normal exercise according to species. Such cages holding cats must contain a litter box.

12.5 Permit shall be posted in a conspicuous place on the premises.

12.6 Permits are not transferable.

12.7 Adequate weatherproof housing shall be provided in all permitted premises with proper ventilation and temperature, and sufficient lighting and shade.

12.8 Outside housing shall protect animals from weather that may be detrimental to the health of the animals.

12.9 Restraint of animals shall be accomplished by adequate pens, cages, runs or fencing maintained at all times to contain the animals.

12.10 Provisions shall be made for the removal and proper disposal of animal and food waste, soiled bedding, dead animals and debris. Animals shall be removed from cages and protected from water and cleaning agents during cleaning. Disposal facilities shall be operated in a manner which will minimize vermin infestation, odors and disease. Adequate drainage shall be maintained.

DOC# 380514

04/25/2017 02:31 PM Page: 13 of 37  
OR R:\$0.00 H K. Becenti, McKinley County



12.11 This subsection intentionally left blank to coordinate with other similar ordinance numbering systems

12.12 Unsterilized adult animals shall be segregated by sex when in mating season, except where otherwise indicated for health, welfare or breeding purposes. Animals shall be housed in compatible groups.

12.13 Vicious, diseased or injured animals and animals that have bitten a person shall be individually caged. [See also: NMSA 1978 §§ 77-1-1 *et. seq.*].

12.14 Animals shall be provided with clean, fresh, sufficient and wholesome food and water. Food and water containers shall be kept clean.

12.15 Sanitary, pest free storage of food and bedding shall be provided.

12.16 Each animal shall be observed daily by the person in charge. Programs for disease control and prevention shall be maintained and available for examination by an animal control officer. Sick, diseased, injured, lame or blind animals shall be provided with appropriate veterinary care. Humane euthanasia will be provided when necessary by a certified euthanasia Technician or veterinarian in accordance with New Mexico administrative code, title 16, chapter 24, parts 1 through 5. The person in charge who suspects an animal of being rabid shall immediately notify the Gallup-McKinley County Animal Control Authority and segregate the animal.

12.17 Every dog or cat offered for sale, adoption, barter, to be given away or any other transfer or conveyance shall have been given age appropriate vaccinations by a veterinarian. A certificate providing the name of the veterinarian and the date of treatment must be provided to the recipient at the time of transfer.

### **SECTION 13: SHELTER-REFUGE-PROFESSIONAL ANIMAL PERMIT AND HOBBY BREEDER PERMIT:**

13.1 The number of adult dogs or cats, or any combination thereof, which a hobby breeder site may keep is established by the following factors:

13.1.1 The area of the permitted hobby breeder site shall be limited to ten percent (10%) of the total area of the premises.

13.1.2 Within the kennel area of a hobby breeder site, seventy five (75) square feet of area shall be provided for each dog weighing less than thirty (30) pounds; one hundred (100) square feet for each dog weighing between thirty (30) and fifty nine (59) pounds, one hundred twenty five (125) square feet per dog sixty (60) pounds and over, and twenty five (25) square feet of space per cat excluding the area occupied by the litter box.

13.1.3 In the kennel area the animal must be able to stand and walk freely and have room for shelter (for outdoor facilities), food, water, and litter boxes for cats.

DOCH 380514

04/25/2017 02:31 PM Page 14 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



13.2 The number of adult dogs or cats, or any combination thereof, which a shelter-refuge-professional animal site may keep is established by the following factors:

13.2.1 The kennel area must provide at least seventy five (75) square feet of area for each dog weighing less than thirty (30) pounds; one hundred (100) square feet for each dog weighing between thirty (30) and fifty nine (59) pounds, one hundred twenty five (125) square feet per dog sixty (60) pounds and over, and twenty five (25) square feet of space per cat excluding the area occupied by the litter box.

13.2.2 A record shall be kept of animal inventory, disposition, and inoculations and shall be available for examination by an animal control officer.

13.3 Hobby breeders must continue to care for or otherwise provide for adoption, rescue or some other type of sanctuary for animals no longer being used for breeding. Site records must reflect compliance with this provision.

13.4 Animals shall be sold only from permitted site.

#### **SECTION 14: PET STORE:**

14.1 Pet stores shall not sell dogs, or cats but may sell other living creatures including, but not limited to, fish, birds, rodents, insects, arachnids, reptiles and other permissible exotic animals.

14.2 No pet store shall conduct business in the county without a shelter-refuge-professional animal site permit.

14.3 Applicant for a permit must have a valid New Mexico tax ID number and a county business registration license issued by the McKinley County Clerk.

14.4 Animals must be kept and maintained in a humane manner with adequate food, water and shelter. Animals must be housed and displayed in such a way to provide adequate enclosure space based on the size and habitat requirements of the animal.

14.5 No permit holder may sell or offer for sale any animal from a mobile facility or at a site away from the permitted site.

14.6 A permit holder shall be liable for the medical costs including medicine, up to the amount received for the sale of the animal, for any animal that is diagnosed as sick by a veterinarian qualified for the species within one week from the date of sale.

14.6.1 Permit holder shall reimburse purchaser the costs associated with the sick animal.

14.6.2 Purchaser shall be allowed to keep the animal.

14.6.3 Permit holder or purchaser may appeal to the Executive Director of the Animal Control Authority if there is a dispute regarding the fact or the illness or the amount of the charges.

**DOCH 380514**

04/25/2017 02:31 PM Page: 15 of 37  
OR R:\$0.00 H. K. Becenti, McKinley County



14.7 This subsection intentionally left blank to coordinate with other similar ordinance numbering systems

14.8 Animals with known or suspected communicable diseases shall be isolated, as appropriate, and treated as soon as possible.

14.9 The daily use of antibiotics for preventative purposes, and not to treat a specific illness or condition, is prohibited whether administered in food, water or by any other method.

**SECTION 15: COMMERCIAL PROPERTY GUARD DOG SITE:**

15.1 The use of a guard dog at commercial property shall comply with this SECTION 15 as follows:

15.2 The area where the guard dog is to be used shall be secured in such a manner as to prevent its escape.

15.2.1 The outside area where the guard dog is on duty must be enclosed by a secure fence at least six feet (6') in height with a forty five degree (45°) angled top which extends back into the enclosure. Such extension shall not be included in the measurement of the fence height and shall not be made of barbed wire or other similar material which would harm the dog. Enclosure shall be designed to effectively contain the animal at all times.

15.3 The property using a guard dog shall be posted with warning signs at least twenty four by twelve inches (24 x 12") with three inch (3") letters.

15.3.1 The warning signs shall state "Guard Dog" and shall show a picture of an aggressive dog.

15.3.2 Warning signs shall be posted not more than fifty feet (50') apart on the exterior of the fences or walls surrounding the property.

15.4 The escape of a guard dog from a guard dog site is a violation of this section and can constitute a basis for seizure of the dog.

15.5 A guard dog shall have a current rabies tag and a valid license tag securely affixed to its collar or harness.

15.11 No breeding of animals is allowed at a guard dog site.

**SECTION 16: LITTER PERMIT:**

16.1 An owner who intentionally or unintentionally breeds a dog or cat and who does not have a current shelter-refuge-professional animal permit or hobby breeder permit shall purchase a litter permit for each litter. A female dog or cat shall have no more than one litter each year per household.

16.2 The litter permit application shall contain the following information at a minimum:

- a. Name of applicant.
- b. Address of applicant.

DOC# 380514

04/25/2017 02:31 PM Page: 16 of 37  
OR R: \$0.00 H. K. Becenti, McKinley County





- c. Telephone number of applicant.
- d. Description and picture of female animal.
- e. The Gallup-McKinley County Animal Control Authority may require such other information as is deemed necessary in order to determine whether to approve or deny a permit under this Section.

16.3 A Litter permit is good for six (6) months from date of issue and must be obtained no later than one week after the birth of the litter.

16.4 The owner shall not advertise, barter for, sell, or give away any puppy or kitten unless the applicable permit number is displayed legibly in all advertisements. The owner shall furnish the litter permit number to any potential recipient upon request. Failure to list permit number or advertising without prior purchase of permit is a violation of this section.

16.5 Puppies and kittens can only be bartered for, sold, given away or other transfer or conveyance from the applicant's address as listed on the litter permit. Puppies or kittens being bartered for, sold, given away or other transfer or conveyance on public or commercial property even with the property owner's permission are in violation of this Ordinance.

16.6 Every dog or cat offered for sale, barter, given away, adopted or any other transfer or conveyance will have been given age appropriate vaccinations by a veterinarian. A certificate providing the name of the veterinarian and the date of treatment must be provided to the recipient at the time of transfer.

#### **SECTION 17: REDUCED COST SPAY AND NEUTER PROGRAM(S):**

17.1 The Gallup-McKinley County Animal Control Authority shall maintain a list of entity's or programs that offer a targeted dog or cat spay and neuter program aimed at assisting those citizens most in need: the elderly, disabled, or very low income. The Gallup-McKinley County Animal Control Authority will make referrals to the listed entities and programs as needed.

17.2 The Gallup-McKinley County Animal Control Authority may within their annual budgetary process, create and operate a Reduced Cost Spay and Neuter Program based on the following requirements (income information is subject to verification) and guidelines:

- a. Elderly (70 or more years of age);
- b. Disabled (qualify for social security disability income payments); or
- c. Low income (eligible for Low-Income Home energy Assistance Program (LIHEAP) or some other index).
- d. Cost to participants required pursuant to this section shall be established by the Gallup-McKinley County Animal Control Authority.
- e. The Spay and neuter program can include the surgery, and return visit for suture removal, if needed. Vaccinations can be provided at an additional cost.
- f. The Gallup-McKinley County Animal Control Authority Board through resolution may charge to participants who fail to keep an appointment or do not provide four (4) business days' notice to cancel an appointment.
- g. establish other reasonable conditions for participation in the program.

DOC# 380514

04/25/2017 02:31 PM Page: 17 of 37  
OR R.\$0.00 H. K. Becenti, McKinley County



**SECTION 18: This SECTION intentionally left blank.**

**SECTION 19: ADOPTION OF DOGS AND CATS:**

19.1 No dog or cat over the age of three (3) months shall be adopted to a forever home unless it has been spayed or neutered.

19.2 Persons adopting a dog or cat under three (3) months of age will make arrangements with animal control for the sterilization date.

**SECTION 20: ANIMALS BITING PERSONS:**

20.1 The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to the Gallup-McKinley County Animal Control Authority within twenty four (24) hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an animal control officer if the officer deems it necessary to impound said animal for a period of observation.

20.2 A physician who renders professional treatment to a person bitten by an animal shall assess the bite and determine the severity of the bite. If in the treating physicians opinion the bite is severe the physician shall report to the Gallup-McKinley County Animal Control Authority that he/she has rendered professional treatment to a severe bite within twenty four (24) hours of his/her first professional attendance. The physician shall report the name and address of the person bitten as well as the type and location of the bite. The physician shall report the name and address of the owner of the animal that inflicted the bite, if known and any other facts or details that may assist the animal control officer in ascertaining the immunization status of the animal.

20.3 An animal that bites a person shall be confined and observed for a period of ten (10) days from the date of the bite at an animal adoption center, a veterinary hospital, an approved kennel, or at the facility operated by The Gallup-McKinley County Animal Control Authority. However, if the animal has a current vaccination for rabies, the Gallup-McKinley County Animal Control Authority may permit quarantine of such animal at the owner's home. Home confinement shall not be permitted unless the premises have been inspected and approved for such purpose by the animal control officer. If observance of the animal is denied or prevented, the animal shall immediately be confined at the facility operated by The Gallup-McKinley County Animal Control Authority for the remainder of the quarantine period. The owner of the animal shall bear the cost of confinement paid at the time of impound. The owner of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the Gallup-McKinley County Animal Control Authority for such home confinement.

20.4 If the animal shows signs of sickness, abnormal behavior, or if the animal escapes confinement, the person shall immediately notify the Gallup-McKinley County Animal Control Authority. The person having custody of an animal that dies during the confinement period shall notify the Gallup-McKinley County Animal Control Authority and surrender the carcass of the animal to an animal control officer.

**DOCH 380514**

04/25/2017 02:31 PM Page: 18 of 37  
OR R:\$0.00 H K. Becenti McKinley County



20.5 If an officer deems it necessary to impound an animal for observation for violation of the above conditions and/or severity of the bite, the owner cannot remove the animal from observation until the observation period is complete. The owner shall bear the cost of confinement.

20.6 The owner of any animal over three (3) months of age that has bitten a person shall be required to pay the reclaim fee, sterilization fee or provide proof of sterilization before the animal will be released from impound restrictions.

20.7 It is unlawful for a person to keep an animal known to have bitten any person on two (2) separate incidents. The owner has a duty to destroy said animal humanely or surrender such an animal to the Gallup-McKinley County Animal Control Authority for proper humane euthanizing upon the order of the court. This does not include an animal which bites, attacks, or injures a person unlawfully upon its owner's premises, or where provoked.

20.8 If an owner is not located within 24 hours after a bite the animal will be put down and sent off for rabies testing.

#### **SECTION 21: ANIMAL LICENSE:**

21.1 It is unlawful for any person to own or harbor a dog, canine hybrid or cat over the age of three (3) months without obtaining a license for such animal.

21.2 Applications for licenses shall be made on forms provided by the Gallup-McKinley County Animal Control Authority. All applications shall include the name of the legal owner of the animal, the mailing address and physical address of the owner. It is unlawful for any person to knowingly falsify information concerning animal ownership, the owner's address, animal description, or any other information required on the application.

21.3 Licenses shall be purchased for one to three years in accordance to the duration of the rabies shot. Failure to renew the license within thirty (30) days of the expiration date shall result in the assessment of a penalty fee in addition to the cost of the license.

21.4 A current rabies certificate must be presented at the time of applying for a license.

21.5 Pet identification is mandatory. Identification techniques may be used that reflect technological advances, such as microchip technology, if owner information is obtainable by an animal control officer, shelter, veterinarian, or other appropriate organization. Methods of identification should include one of the following, but is not limited to, microchip, license tags, identification tags, or tattoos applied by a veterinarian.

21.5.1 If the only means of identification used is a tag, the current license tag shall be securely affixed to the collar or harness which shall be worn by the animal at all times unless the animal is being housed in a kennel or veterinary hospital, or appearing in a bona fide animal show, or is being trained; provided, however, that the person who is training the animal shall have in his personal possession a valid license tag for each animal and shall immediately display the license upon request by the Gallup-McKinley County Animal Control Authority.

DOCH 380514

04/25/2017 02:31 PM Page: 19 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



21.5.2 Identification methods must be kept up to date and current with owner information.

21.6 License tags shall not be transferred from animal to animal.

21.7 The license fee shall be waived to qualified service animals. All other licensing requirements shall apply. [See also, definitions in the Service Animal Act at NMSA 1978 §§ 28-11-1.1 *et. seq.*].

21.8 Shelter facilities, refuge establishments and approved rescue foster homes are exempt from this Section 21.

21.9 License expires December 31 of year purchased or third year as applicable.

#### **SECTION 22: NUMBER OF ANIMALS ALLOWED:**

22.1 No person or household within a duly organized and established Water and Sanitation Districts, or Mutual Domestic Water Association shall own, harbor or keep more than a combined total of four (4) dogs and/or cats with any combination thereof over the age of three (3) months without a valid shelter-refuge-professional animal permit, hobby breeder site or multiple animal site permit issued by the Gallup-McKinley County Animal Control Authority.

22.1.1 A household as defined in Section 22.1 above may have the appropriate number of dogs or cats or any combination thereof provided that all of the animals shall be sterilized. A medical waiver certificate may be acceptable in cases when the sterilization of an animal would pose a substantial threat to the health of the animal. The certificate shall be on official letterhead from a licensed veterinarian and shall contain the name and address of the owner of the animal, a description of the animal, the medical condition prohibiting sterilization, and the date upon which the animal may be sterilized. A medical waiver certificate must be resubmitted annually. This does not waive the reclaim fee.

22.2 County open areas shall be allowed an unlimited amount of animals as long as each animal is licensed.

22.3 No person or household shall permit or allow the breeding of a dog or cat in the absence of a valid hobby breeder site permit or litter permit.

#### **SECTION 23: MULTIPLE ANIMAL SITE PERMIT:**

23.1 Any person intending to exceed the maximum limit of dogs and cats in a household as defined in SECTION 22 of this Ordinance No. JAN-17-001 shall obtain a multiple animal site permit.

23.2 All dogs and cats at a multiple animal site shall be licensed, spayed or neutered and have current vaccinations. The only exception would be an animal which is unable to be sterilized due to medical reasons. The owner must present valid veterinary certificate as defined in subsection 22.1.1 of this Ordinance No. JAN-17-001. This does not waive the reclaim fee.

23.3 Fostering a pregnant dog or cat and her eventual offspring is a temporary exception to this rule.

**DOCH 380514**

04/25/2017 02:31 PM Page 20 of 37  
OR R: \$0.00 H. K. Becenti, McKinley County



23.4 Adjoining property owners may petition the Gallup-McKinley County Animal Control Authority for a revocation, modification or suspension of a multiple animal site permit if the adjoining property owner is reasonably aggrieved by any effects of the multiple animal site.

23.5 No person shall keep or maintain more than eight (8) dogs or cats or any combination thereof at any multiple animal site permit location, no more than two (2) of which can be unsterilized.

23.6 The area provided for the dogs and cats whether in secure runs, kennels or security perimeter fence must be as follows:

1. Seventy five (75) square feet of area shall be provided for each dog weighing less than thirty (30) pounds;
2. One hundred (100) square feet for each dog weighing between thirty (30) and fifty nine (59) pounds;
3. One hundred twenty five (125) square feet per dog sixty (60) pounds and over; and
4. Twenty five (25) square feet of space per cat excluding the area occupied by the litter box.

23.7 Dogs may not be secured on a trolley system.

23.8 Upon presenting proper identification and at a reasonable hour, Animal Control staff shall be allowed access to any permitted premises for the purpose of inspection on an annual basis or upon reasonable notice. Permits may be suspended for failure to comply with the requirements of this Ordinance No. JAN-17-001, as well as for violation of other applicable laws, regulations, and ordinances.

23.9 Rescue animals shall be exempt from the fee for a multiple animal site permit while in the custody and care of the rescue organization or individual. Accurate records shall be kept and maintained by the rescue organization or individual, and the Animal Control official shall be permitted at any reasonable time to inspect such records and the rescue animals' living conditions.

#### **SECTION 24: RESTRAINT OF DOGS:**

24.1 A person owning or having charge, custody, care, or control over a dog, shall keep the dog upon his or her own premises by either a secure run or kennel area, an enclosure surrounding the perimeter of the property, or on a trolley device, or any other acceptable means. Direct point chaining to stationary objects is prohibited. Any dog not deemed dangerous and not within a secure enclosure may be restrained by means of a trolley system, or a tether attached to a pulley on a cable run on its owner's property, subject to the following conditions:

- a. Trolley system shall not be used for any female dog that has not been sterilized.
- b. Only one dog per household may be tethered to a trolley system.
- c. There must be a swivel on each end of the tether to minimize tangling.
- d. The tether and cable run must be of adequate size and strength to effectively restrain the dog. The size and weight of the tether must not be excessive, as determined by the animal control officer, considering the age, size and health of the dog.
- e. The cable run must be at least ten feet (10') in length and mounted either at ground level or at least four feet (4') above ground level.



- f. The trolley system must be designed to prevent the dog from being within four feet (4') of the property boundary.
- g. A dog attached to a trolley system shall be surrounded by a barrier on each side adjoining a public access. The barrier shall be sufficient to prevent children from accidentally coming into contact with the dog.
- h. The tether must be at least ten feet (10') in length unless such length allows the dog to move within four feet (4') of the legal boundary of the property, in which case the tether shall be no less than eight feet (8') in length. If the size of the property will not allow a tether of no less than eight feet (8'), a trolley system shall not be used.
- i. The tether must be affixed to the dog by use of a nonabrasive, comfortably fitted harness. Prong type, pinch type, or choke collars shall not be used.
- j. The device must be fastened so that the dog can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or dog to become entangled or strangled.
- k. The dog must have easy access to adequate shelter, shade, food, and potable water.
- l. The area where the dog is confined must be kept free of garbage and other debris that might endanger the animal's health or safety. Feces shall be cleaned up daily.
- m. The area where the dog is confined must be kept free of insect infestation, such as anthills, wasps' nests, and infestations of fleas, ticks or maggots.

24.2 Any dog deemed dangerous shall be confined as defined in SECTION 50 of this Ordinance No. JAN-17-001, but does not include chaining, restraining, or otherwise affixing the animal to a stationary object.

24.3 The use of a crate is prohibited as a means of outdoor confinement.

24.4 Secure run or kennel area must provide, as a minimum, seventy five (75) square feet of area for each dog weighing less than thirty (30) pounds; one hundred (100) square feet for each dog weighing between thirty (30) and fifty nine (59) pounds, one hundred twenty five (125) square feet per dog sixty (60) pounds and over.

24.5 A dog is permitted on the street and in other public places only if on a secure leash not exceeding six feet (6') in length. Longer retractable leashes may be used, provided the person with the dog is capable of controlling the dog. All other animals must be secured in a fashion acceptable for the species of animal. A person physically capable of controlling and restraining the animal must exercise immediate custody. This section does not apply when an animal is participating in a bona fide animal show authorized by the county or appropriate authorities. Animal feces shall be removed and properly disposed of by owner.

24.6 Nothing in this section shall be construed as allowing any animal under physical restraint to commit any act defined as unlawful in this Ordinance No. JAN-17-001.

24.7 A person who uses electric or invisible fencing designed to confine an animal to his property must clearly post a notice in two (2) separate locations upon the property that such a device is in use.

#### **SECTION 25: VACCINATIONS:**

**DOC# 380514**

04/25/2017 02:31 PM Page: 22 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



25.1 It is the duty of a person owning or keeping a dog or cat over the age of three (3) months to have the animal vaccinated against rabies as prescribed by New Mexico Statutes Annotated 1978, section 77-1-3. The Gallup-McKinley County Animal Control Authority may require that other animals have annual rabies vaccinations.

25.2 The veterinarian administering anti-rabies vaccines to any animal shall issue the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner of the animal, a description of the animal vaccinated, the date of vaccination, and the date immunity expires.

25.3 The veterinarian shall also furnish the owner or keeper with a metal tag bearing the certificate number. A current rabies tag shall be affixed by the owner or keeper to a collar or harness worn by the animal at all times unless the animal is being kept in an approved kennel or veterinary hospital, is being trained by a professional trainer or is appearing in an approved show.

25.4 It is unlawful for the owner of any dog or cat or any other member of the canine or feline family to fail to exhibit its certificate of vaccination upon demand by the Gallup-McKinley County Animal Control Authority. This subsection does not apply to any animal under control of the shelters.

25.5 For licensing purposes a medical waiver certificate may be acceptable in cases when the rabies vaccination of an animal would pose a substantial threat to the health of the animal. The certificate shall be on official letterhead from a licensed veterinarian and shall contain the name and address of the owner of the animal, a description of the animal, the medical condition prohibiting vaccination, and the date upon which a vaccination may be given. A medical waiver certificate must be resubmitted annually.

**SECTION 26: ABANDONMENT:**

It is unlawful for a person to abandon an animal. Abandonment does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing unowned cats by trap, neuter and return is not deemed the owner, keeper, holder or possessor of such cats.

**SECTION 27: ADMISSION OF QUALIFIED SERVICE ANIMALS TO PUBLIC PLACES:**

Notwithstanding any other provision of law, a qualified service animal may be admitted to any building open to the public and to all public accommodations such as restaurants, hotels, hospitals, swimming pools, stores, common carriers and theaters; provided that the qualified assistance animal is under the control of a person with a disability or a trainer of assistance animals. No person shall be required to pay any additional charges for his qualified service animal, but shall be liable for any damage done by his qualified service animal.

**SECTION 28: ANIMALS DISTURBING THE PEACE:**

DOCH 380514

04/25/2017 02:31 PM Page: 23 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



28.1 It is unlawful for a person to allow an animal to persistently or continuously bark, howl or make noise common to their species or otherwise disturb the peace and quiet of inhabitants of a local organized community (i.e. Water and Sanitation District, Mutual Domestic Water Association, etc.). Persistent, continuous or loud intermittent noise between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. which can be heard more than fifty feet (50') from the source of the noise is prima facie evidence of violation of this subsection.

28.2 It is unlawful to keep or maintain an animal in such an unclean or unsanitary manner that it disturbs others by noxious or offensive odors.

#### **SECTION 29: ANIMALS KILLING OR INJURING LIVESTOCK OR PROTECTED WILDLIFE:**

29.1 It is unlawful for a person to keep an animal known to have killed or injured livestock or protected wildlife. The owner has a duty to destroy said animal humanely or surrender such an animal to the Animal Control Authority for proper humane euthanizing upon the order of the court.

29.2 An owner of livestock shall have the right to kill an animal that has injured or killed livestock or protected wildlife while it is upon property controlled by the owner of the livestock. The owner is responsible for any financial loss resulting in injured or killed livestock.

#### **SECTION 30: DOGS ON UNENCLOSED PROPERTIES:**

It is unlawful for a person to harbor, tether, stake out, or heard a dog on an unenclosed premises in such a manner that may allow the animal to go beyond the property line.

#### **SECTION 31: ANIMAL POISONING:**

31.1 It is unlawful for a person to make accessible to any animal, with the intent to cause harm or death, any substance which has been treated or prepared with a harmful poisonous substance.

31.2 This section does not apply to placement of such substance(s) in order to control vermin of significance to the public health.

#### **SECTION 32: DOGS RUNNING AT LARGE:**

32.1 It is unlawful for a person to allow or permit any dog to run at large in or on any alley, street, sidewalk, vacant lot, public property, other unenclosed place within the police power of the City or County or established Water and Sanitation District or Mutual Domestic Water Association, etc., or private property without the permission of the property owner.

32.2 A dog permitted to run at large in violation of this section is declared to be a nuisance and a menace to the public health and safety. Such animal may be taken up and impounded. An animal control officer may go upon private property within the police power jurisdiction of the County in pursuit of an animal which is running at large unless permission to make such pursuit is explicitly refused by the occupant of the property. An animal control officer may not enter into a private building or residence in pursuit of an animal.

DOCH 380514

04/25/2017 02:31 PM Page: 24 of 37  
OR R: \$0.00 H. K. Becenti, McKinley County





32.2.1 1st time animal is picked up running at large, owner is given a warning citation.

32.2.2 2nd time animal is picked up running at large, owner is given a 2nd warning citation.

32.2.3 3rd time animal is picked up running at large, the animal will be seized by an animal control officer and the disposition of the animal will be in accordance with §11.2.2 of this Ordinance.

32.3 working dog(s) performing such acts as herding or search and rescue that are under the control and supervision of the owner or handler shall not be considered as unleashed while performing its duties. A hunting, obedience, tracking or show dog that is under the control and supervision of the owner or handler shall not be considered as unleashed while performing in those capacities.

32.4 It is unlawful for an owner, manager, agent, or governing board of any multiple dwelling units, including mobile home parks and gated communities, to permit any animal to run at large upon the common areas of the multiple dwelling units.

### **SECTION 33: INJURY TO ANIMALS BY MOTORISTS:**

Every operator of a motor or self-propelled vehicle upon the streets and ways within the police power jurisdiction of the county shall immediately upon injuring, striking, maiming or running down any animal provide immediate notification to Animal Control, furnishing sufficient facts relative to the incident. Such animal shall be deemed an uncared for animal within the meaning of subsection 9.13 of this Ordinance.

### **SECTION 34: ANIMALS TRANSPORTED IN VEHICLES:**

Animals must be kept safe during transport.

34.1 Pickup Trucks: Animals that are transported in the bed of a pickup truck must be protected from extreme temperatures and provided with a nonmetal surface to sit or stand on.

34.1.1. Crate: If an animal is put in a crate or other enclosure, the crate or enclosure must be securely fastened to the bed or sides of the truck so that the crate or enclosure cannot slide, turn over or fall out.

34.1.2. Protection From Weather: No animal shall be left in the bed of a truck whether in a crate or not when the weather is such that the animal will be exposed to extreme weather.

34.2 Cars, Vans and RVs: Animals riding inside vehicles that are not in crates or other enclosures must not be allowed access to a window opened wide enough for the animal to jump or fall. Animals riding in open topped or open sided vehicles must be secured in a humane manner to ensure the animal cannot jump or fall.

34.3 Transporting More Than One Animal: In addition to all other regulations in this section, animals should never be overcrowded when being transported. If the animals are crated or kept in any enclosure, they may be allowed to share a crate but each animal should be able to stand up, move around, lie down and stretch out naturally. If crates or enclosures are stacked, they must be attached securely to prevent the crates or enclosures from falling or turning over. If crates or other enclosures are stacked, the crates

DOC# 380514

04/25/2017 02:31 PM Page: 25 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



or enclosures must have solid bottoms to prevent urine or feces from passing between crates and enclosures.

34.4 Unattended Animals: No person shall intentionally, knowingly or recklessly leave an animal unattended in a closed vehicle for any length of time without providing adequate ventilation to prevent the temperature in the vehicle from rising high enough such that any reasonable person would know that the animal would suffer from heat exposure. An animal left in a closed vehicle without the interior of the vehicle being air conditioned when the ambient temperature is over eighty degrees (80°), shall be prima facie evidence of a violation of this Ordinance. If Animal Control determines that an animal in a vehicle is in immediate danger, the Animal Control officer or sheriff's deputy may enter the vehicle by whatever means necessary, without being liable to the owner of the vehicle for any damage, and seize the animal. The animal's owner shall be responsible for all expenses related to the removal of the animal, emergency veterinary treatment and impoundment. If the animal control officer or sheriff's deputy cannot determine who confined the animal, the registered owner of the vehicle will be cited.

#### **SECTION 35: ANIMAL WASTE:**

It is unlawful to permit an animal to defecate on public or private property other than the property of the owner of the animal unless such animal waste is immediately removed and properly disposed of by the person having custody of the animal. The provision of this section does not apply to guide dogs or other service dogs assisting a person with a disability.

#### **SECTION 36: BREAKING INTO ANIMAL PROTECTION FACILITIES OR VEHICLES:**

It is unlawful for a person to break into any pound, center, facility, kennel or vehicle wherein animals are impounded, or to in any manner remove or assist in the removal of any animal or equipment from such; or, to take an animal from facility and its property while facility is open or closed without proper release paperwork or fines and adoption fees paid..

#### **SECTION 37: CARE AND MAINTENANCE:**

37.1 It is unlawful for a person to fail, refuse or neglect to provide any animal in his charge or custody such care and husbandry as to maintain the good health and wellbeing of the animal. Such care and husbandry shall include, but not be limited to, adequate food appropriate to species, and potable water within reach, adequate living area, professional veterinary care and necessary grooming to maintain good health and protection from extreme weather elements. Animals shall be provided adequate space to prevent overcrowding and to maintain normal exercise according to species, size and temperament.

37.1.1 1st time welfare check, owner is given a warning citation with a specific time to correct the problems given by the Officer.

37.1.2 2nd welfare check, if conditions have not been corrected, owner will be given a 2nd warning with a specific time given by the officer to correct the problem.

37.1.3 3rd welfare check, if conditions have still not been corrected the animal will be seized by an animal control officer and the disposition of the animal will be in accordance §11.2.2 of this Ordinance.

**DOC# 380514**

04/25/2017 02:31 PM Page: 26 of 37  
OR R \$0.00 H K. Becenti, McKinley County



**SECTION 38: CONFINEMENT OF FEMALE DOGS OR CATS IN MATING SEASON:**

38.1 A person in control of a female dog or cat in mating season shall confine such dog or cat so as to prevent other dogs or cats from attacking or being attracted to such female animal.

38.2 It shall be unlawful to maintain a female dog or cat in mating season in any manner that creates a public nuisance.

**SECTION 39: CONCEALMENT OF ANIMAL:**

It is unlawful for any person to conceal any animal from the officers charged with the enforcement of this Ordinance.

**SECTION 40: FIGHTS:**

40.1 It is unlawful for a person to promote, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.

40.1.1. It is unlawful for any person to sell, receive, possess, transport, loan, or give away any animal fighting paraphernalia.

40.1.2. It is unlawful for any person to raise, train, condition, sell, receive, possess, transport, loan, or give away animals for fighting purposes whether or not the fight is to be conducted inside or outside the police power jurisdiction of McKinley County.

40.1.3. No person shall provoke or entice an animal from the property of its owner for the purpose of engaging the animal in an animal fight.

40.2 Nothing in this section shall prohibit a person from engaging in legal hunting practices as allowed by state wildlife authorities.

**SECTION 41: FOWL; IMPOUNDING OR CRATING:**

It is unlawful for a person to confine any wild or domestic fowl or birds unless provisions are made by such person for the adequate feeding and the furnishing of water to such fowl or birds at intervals not longer than twelve (12) hours. No person shall impound wild or domestic fowl or birds in a crate, box or other enclosure unless such fowl or bird is in a natural erect position unless such position causes injury or damage to the fowl or bird.

**SECTION 42: INTERFERENCE WITH THE ANIMAL CONTROL OFFICER IN THE PERFORMANCE OF HIS DUTIES:**

DOCH 380514

04/25/2017 02:31 PM Page: 27 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



42.1 No person shall attack, assault or in any way threaten or interfere with the animal control officer in the performance of the duties required by this Ordinance.

42.2 No person shall conceal one's true name or identity or disguise oneself with the intent to obstruct due execution of the law or with the intent to intimidate, hinder or interrupt an animal control officer in the legal performance of his or her duties.

42.3 No person shall interfere with or tamper with any equipment used by animal control officers, including release of animals contained in such equipment.

42.4 No person shall engage in conduct that would agitate, obstruct, oppose, or distract an animal control officer in the legal performance of his or her duties.

**SECTION 43: KEEPING A SERIOUSLY SICK OR INJURED ANIMAL:**

43.1 It is unlawful for a person to have, keep or harbor an animal which is seriously sick or injured, including starvation, without providing proper veterinary care.

43.2 The Gallup-McKinley County Animal Control may require the owner to provide a letter of proof of appropriate care by a licensed veterinarian describing the condition of the animal and the treatment provided. The Gallup-McKinley County Animal Control may evaluate the condition of an animal.

43.3 In the absence of proper veterinary care, the Gallup-McKinley County Animal Control may impound such a seriously sick or injured animal in accordance with the provisions of this Ordinance.

43.4 Any such animal impounded may be destroyed humanely or otherwise disposed of according to the normal procedures of the impound facility as soon thereafter as is conveniently possible.

**SECTION 44: THIS SECTION INTENTIONALLY LEFT BLANK AND RESERVED FOR FUTURE USE**

44.1: This section is intentionally left blank and reserved for future use

**SECTION 45: SALE AND DISPLAY OF ANIMALS:**

45.1 Address on Permit: A person shall only sell, offer for sale, barter, give away or otherwise dispose of an animal at the physical address listed on the appropriate permit issued by the Gallup-McKinley County Animal Control. The applicable permit number is to be displayed legibly in all advertisements and furnished to any potential recipient upon request. Shelters shall be allowed off site adoption events, with permission of site owner and while preserving appropriate care and maintenance of animals.

45.2 Turtles: No person shall offer for sale, sell, barter or give away turtles except in conformance with the appropriate federal regulations.

45.3 Animals as Prizes: No person shall offer an animal as a prize, giveaway or award for a contest, game, or sport or as an incentive to purchase merchandise.

45.4 Animal Exhibits:

DOC# 380514

04/25/2017 02:31 PM Page 28 of 37  
OR R-\$0.00 H. K. Becenti, McKinley County



45.4.1. No person shall operate, conduct, or maintain a permanent or temporary commercial animal show, circus, animal exhibition, animal ride, petting zoo or carnival without first having obtained a permit from the Gallup-McKinley County Animal Control. Conditions for permit approval include provisions for the humane care and treatment of the animals and the protection of public safety. Permits shall not be issued upon verification that within the preceding twelve (12) months the applicant has been convicted of charges of animal cruelty, abuse, or neglect, or has violated the federal animal welfare act.

45.4.2 No person shall operate, conduct or maintain any animal exhibit under conditions that pose a danger to the public or the animals.

45.4.3 The following are exempt from the requirements of this section:

- a. Individuals or groups holding a state of New Mexico regulated permit or a federally regulated permit.
- c. Competitive sporting events.
- d. Circuses or carnivals that have a permit issued under the proper Ordinance.

45.4.4 Persons involved in these exempt activities shall comply with all other applicable sections of this Ordinance.

**SECTION 46: STERILIZATION AGREEMENTS/CONTRACTS:**

It shall be unlawful for a person to possess any unsterilized animal when such animal is required to be sterilized under the terms of any applicable sterilization agreement or contract originating from any governmental, municipal or nonprofit shelter.

**SECTION 47: UNLAWFUL USE OF RABIES TAG:**

It is unlawful for any person to remove or transfer any rabies tag from one animal to another. It is unlawful for any person to manufacture or cause to be manufactured or to have in his possession or under his control a stolen, counterfeit or forged animal license tag, rabies tag, vaccination certificate or other form of licensing or permitting required under this Ordinance.

**SECTION 48: IMPROPER DISPOSAL OF ANIMALS:**

Deceased animals shall be properly disposed of in accordance with this Ordinance. Following the death of an animal, the owner shall be responsible for removing the corpse immediately and disposing of the body by either private burial or taking the animal to the appropriate solid waste facility. It is unlawful to dispose of the body of any animal by dumping the corpse on public or private property, roads or Rights-of-Way.

**SECTION 49: VICIOUS OR DANGEROUS ANIMALS:**

DOCH 380514

04/25/2017 02:31 PM Page: 29 of 37  
OR R.\$0.00 H. K. Becenti, McKinley County



49.1 It is unlawful for any person to keep or harbor a vicious animal. When an animal control officer has probable cause to believe that an animal is vicious, the officer may take up and impound the animal into protective custody awaiting appropriate court proceedings. Following judicial determination that an animal is vicious, the court having jurisdiction over the enforcement of this Ordinance, shall, in addition to any fine or imprisonment imposed for violation of this section, order the owner or keeper of such vicious animal to destroy it humanely or turn such animal over to the Gallup-McKinley County Animal Control for destruction.

49.2 It shall be unlawful to maintain a dangerous animal in a manner which constitutes a threat to any person or other animal.

49.3 Any dog that is deemed dangerous by admission of owner or by court determination shall register the dog with the Gallup-McKinley County Animal Control Authority by obtaining a dangerous dog permit.

## **SECTION 50: DANGEROUS DOG:**

### **50.1: SHORT TITLE:**

This "SECTION 50" may be cited as the *DANGEROUS DOG SECTION*. [Sections 50.1 through 50.6.2]. [See also, NMSA 1978 §§ 77-1A-1 *et. seq.* the Dangerous Dog Act].

### **50.2: DEFINITIONS:**

As used in this SECTION 50:

- **DANGEROUS DOG:** A dog that caused a serious injury to a person or domestic animal.
- **OWNER:** A person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of eighteen (18), that person's parent or guardian.
- **POTENTIALLY DANGEROUS DOG:** A dog that may reasonably be assumed to pose a threat to public safety as demonstrated by one or more of the following behaviors:
  - A. Causing an injury to a person or domestic animal that is less severe than a serious injury.
  - B. Chasing or menacing a person or domestic animal in an aggressive manner and without provocation.
  - C. Acting in a highly aggressive manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure or on a trolley system.
- **PROPER ENCLOSURE:** Secure confinement indoors or outdoors in a kennel, pen or structure with secure sides and a secure top and bottom attached to the sides, that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or otherwise tethering the animal.
- **SERIOUS INJURY:** A physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or re-constructive surgery.

### **50.3: EXCEPTIONS:**

A dog shall not be declared a dangerous or potentially dangerous dog if:

DOC# 380514

04/25/2017 02:31 PM Page: 30 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



- 50.3.1 The dog was used by a law enforcement official for legitimate law enforcement purposes.
- 50.3.2 The threat, injury or damage was sustained by a person or domestic animal that was:
- a. Trespassing upon premises occupied by the owner of the dog.
  - b. Provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog.
  - c. Committing or attempting to commit a crime.
- 50.3.3 Or the dog was:
- a. Responding to pain or injury.
  - b. Protecting itself or its offspring.
  - c. Protecting or defending a human being or domestic animal from attack or assault.

#### **50.4 SEIZURE OF DOG; PETITION TO COURT:**

50.4.1 In other than an emergency situation as set out in SECTION 5 of this Ordinance if an animal control officer has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control officer may apply to a court of competent jurisdiction for a warrant to seize the animal.

50.4.2 If an animal control officer has probable cause to believe that a dog is a potentially dangerous dog for any other justifiable reason, the animal control officer may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.

50.4.3 After seizure, the animal control officer shall impound the dog pending disposition of the case or until the owner has fulfilled the requirements for maintaining a dangerous or potentially dangerous dog in this Ordinance.

50.4.4 After seizure:

- a. The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for maintaining a dangerous or potentially dangerous dog pursuant to this SECTION 50; or
- b. The Gallup-McKinley County Animal Control Authority, within fourteen (14) days after seizure of the dog, bring a petition in court seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within thirty (30) days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the release of the dog to the owner.
- c. If the owner does not admit that the dog is dangerous or potentially dangerous and the Gallup-McKinley County Animal Control Authority does not bring a petition in court within a reasonable amount of time of seizure of the dog, the court on a petition by the owner may immediately order the release of the dog to its owner.

DOC# 380514

04/25/2017 02:31 PM Page 31 of 37  
OR R:30.00 H. K. Becenti, McKinley County



d. If the owner admits that the dog is dangerous and transfers ownership of the dog to the Gallup-McKinley County Animal Control Authority, the Gallup-McKinley County Animal Control Authority may humanely destroy the dog.

50.4.5 A determination that a dog is not dangerous or potentially dangerous shall not prevent an animal control officer from making a subsequent application for seizure based on the dog's subsequent behavior.

**50.5: REGISTRATION AND HANDLING REQUIREMENTS FOR DANGEROUS AND POTENTIALLY DANGEROUS DOGS:**

50.5.1 The Gallup-McKinley County Animal Control Authority shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes that:

- a. The owner is able to keep the dog under control at all times.
- b. A license has been issued by the Gallup-McKinley County Animal Control Authority.
- c. The dog has a current rabies vaccination.
- d. The owner has a proper enclosure for the dog which shall be kept locked at all times when the vicious dog is within the structure.
- e. The owner has paid an annual fee, if applicable, established by the Gallup-McKinley County Animal Control Authority to register a potentially dangerous dog.
- f. The dog has been spayed or neutered.
- g. The dog has been implanted with a microchip containing owner identification information that is also provided to the Gallup-McKinley County Animal Control Authority.
- h. The owner has entered the dog in a socialization and behavior program approved or offered by the Gallup-McKinley County Animal Control Authority.

50.5.2 If a dog previously determined to be potentially dangerous has not exhibited any of the behaviors which define a potentially dangerous dog for thirty six (36) consecutive months, the owner may request the Gallup-McKinley County Animal Control Authority to lift the requirements for registration pursuant to this section. If the Gallup-McKinley County Animal Control Authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.

50.5.3 The Gallup-McKinley County Animal Control Authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of subsection 50.5.1 of this section, establishes that:

- a. The owner has paid an annual fee, if applicable, established by the Gallup-McKinley County Animal Control Authority to register a dangerous dog;
- b. The owner has written permission of the property owner or homeowners' association where the dangerous dog will be kept, if applicable;
- c. The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination;

DOCH 380514

04/25/2017 02:31 PM Page: 32 of 37  
OR R:\$0.00 H. K. Becenti, McKinley County





- d. When the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet (4'), and the dog shall be under complete control at all times;
- e. The dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and
- f. A clearly visible warning sign with a conspicuous warning symbol indicating that there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from fifty feet (50'), whichever is less.

50.5.4 The Gallup-McKinley County Animal Control Authority may order the immediate impoundment or humane destruction of a dog previously determined to be a dangerous dog if the owner fails to abide by the conditions for registration, confinement or handling set forth in this Ordinance.

**50.6: PROHIBITED ACTS; PENALTIES:**

50.6.1 It is unlawful for an owner of a dangerous or potentially dangerous dog to:

- a. Keep the dog without a valid certificate of registration.
- b. Violate the registration and handling requirements for the dog.
- c. Fail to notify the animal control division immediately upon:
  - i. The escape of the dog.
  - ii. An attack by the dog upon a human being or a domestic animal.
  - iii. Fail to notify the Gallup-McKinley County Animal Control Authority of the dog's death within five (5) business days.
  - iv. Fail to notify the Gallup-McKinley County Animal Control Authority within twenty four (24) hours if the dog has been sold or given away and provide the name, address and telephone number of the new owner of the dog.
  - v. Fail to surrender the dog to an animal control officer for safe confinement pending a determination of the case when there is reason to believe that the dog poses an imminent threat to public safety.
  - vi. Fail to comply with special handling or care requirements for the dog that a court has ordered.

50.6.2 Whoever violates a provision of subsection 50.1.1 of this section is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of this Ordinance under the allowed penalties of NMSA 1978 § 3-38-19; Imposing a fine of not more than three hundred dollars (\$300) or imprisonment for not more than ninety days or both.

50.6.3 Alternatively: NMSA 1978 § 77-1A-6(B) provides for violations of the Dangerous Dog Act to be a misdemeanor and to be sentenced in accordance with the provisions of NMSA 1978 § 31-19-1, or a felony under the provisions of NMSA 1978 § 31-18-15:

- a. for a misdemeanor a penalty of imprisonment in the county jail for a definite term less than one year or the payment of a fine of not more than one thousand dollars (\$1,000) or both such imprisonment and fine in the discretion of the judge.

DOCH 380514



b. for a second or subsequent offense, a fourth degree felony consisting eighteen months imprisonment.

**SECTION 51: WILD ANIMALS; CANINE HYBRIDS; VIETNAMESE POTBELLED PIGS:**

**51.1: WILD ANIMALS:**

51.1.1 It shall be unlawful for a person to own, harbor, keep or exhibit on any private or public property in the police power of McKinley County any wild animal of a species that in its natural life is dangerous or ferocious. Such animals, though they may be trained and domesticated, remain a danger to others, and include:

- a. Wolves, foxes, coyotes, dingoes, and other members of the nondomestic canine families.
- b. Lions, pumas, panthers, mountain lions, wild cats, and other members of the nondomestic feline families.
- c. All bears (ursidae), including grizzly bears, black bears, brown bears, etc.
- d. Raccoons (procynidae), including eastern raccoon, desert raccoon, ring tailed cat, etc.
- e. Primates (hominidae), including all nonhuman great apes other than qualified service animals.
- f. Skunks.
- g. Bats.
- h. Nonindigenous poisonous snakes.
- i. Alligators, crocodiles, caimans, or poisonous lizards.
- j. Venomous fish and piranha.

51.1.2 This section shall not apply to municipal zoos and aquarium facilities, veterinary facilities, or individuals or organizations holding a state of New Mexico regulated permit.

51.2 Hybrid Ownership is not allowed

**SECTION 52: PENALTIES:**

**52.1: PENALTY:**

52.1.1 A person found guilty of violating any provision of this Ordinance, SECTION 1 *et. seq.*, shall be guilty of a misdemeanor.

52.1.2 A as provided in NMSA 1978 §4-37-3(A); Unless specifically authorized otherwise by state law or limited by state law or ordinance, a person found guilty of a misdemeanor as provided in this Ordinance or found guilty of violating any provision of this Ordinance by committing an act declared to be unlawful or otherwise prohibited, or omitting to act when required, shall, for any single offense, be fined not

DOC# 380514

04/25/2017 02:31 PM Page: 34 of 37  
OR R \$0.00 H. K. Becenti, McKinley County



more than three hundred dollars (\$300.00) or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. Each day this code is violated shall constitute a separate offense.

52.1.3 Violations of this Ordinance unless specifically authorized otherwise by state law or this Ordinance No. JAN-17-001 shall be filed in the Magistrate Court for McKinley County.

**52.2: SUSPENSIONS, REVOCATIONS OF PERMITS:**

52.2.1 When a Gallup-McKinley County Animal Control Officer discovers that a person with a permit or a permitted premise is in violation of this Ordinance, the officer shall give notice of the violations to the permit holder, operator or person in charge by means of an inspection report or other written notice of violation. The notification shall:

- a. Set forth each specific violation.
- b. Establish a specific and reasonable period of time for the correction of the violation.
- c. State that failure to comply with a notice issued in accordance with the provisions of this chapter may result in suspension or revocation of the permit.
- d. State that an opportunity for appeal from a notice or inspection findings will be provided if a written request for a hearing is filed with the Executive Director of the Gallup-McKinley County Animal Control Authority within five (5) days of receipt of the notice.
- e. Notices under this section shall be deemed properly served and received when the original inspection report or other notice of violation has been personally served on the person in charge, or sent by registered or certified mail to the last known address of the permit holder.
- f. Permits may be suspended for failure of the holder to comply with the requirements of this Ordinance or other applicable laws, ordinances or regulations. The suspension may be lifted when the Executive Director of the Gallup-McKinley County Animal Control Authority determines the violations have been corrected.
- g. Permits may be revoked for serious or repeated violations of the requirements of this Ordinance, or for violation of other applicable laws, ordinances or regulations. A permit shall be revoked for one year. The permit shall be surrendered to the Gallup-McKinley County Animal Control Authority upon suspension or revocation.
  - i. A person whose permit has been suspended may apply for an inspection of the premises for the purpose of reinstating the permit. If the applicant and the site are in compliance with the requirements of this Ordinance and all other applicable laws, ordinances and regulations, the permit shall be reinstated. The reinstated permit shall expire on the date of expiration of the previously suspended permit.
  - ii. If an exotic or wild animal permit is suspended or revoked, all animals received, purchased, owned or kept under the authority of the permit shall be surrendered to the Gallup-McKinley County Animal Control Authority for impoundment. After a period of at least seven (7) days, if the violations of this Ordinance which resulted in suspension or revocation of the permit have not been corrected, the Gallup-McKinley County Animal Control Authority may sell or dispose of the animal(s) as provided in this Ordinance. The applicant may appeal the suspension or revocation in the manner provided in this Ordinance No. JAN-17-001 Section 52.3.

**APPEAL PROCEDURES FOR PERMIT DENIAL, SUSPENSION OR REVOCATION:**



52.3.1 A person whose application for a permit or permit renewal has been approved on condition or denied and a permit holder, whose permit has been suspended or revoked, may submit to the director of the Gallup-McKinley County Animal Control Authority a written request for a hearing. The written request must be received within five (5) days of the applicant's receipt of the written notice (see §52.2.1 above) from the Gallup-McKinley County Animal Control Authority. The hearing shall be conducted within a reasonable time after the director receives the request for a hearing.

52.3.2 Hearings shall be conducted by the Executive Director of the Gallup-McKinley County Animal Control Authority at a time and place designated by the director and shall be recorded. All witnesses shall be sworn or affirmed. Written notice of the time and place of the hearing shall be mailed to the applicant and witnesses.

52.3.3 The applicant shall be afforded a fair hearing which provides the basic safeguards of due process which shall include:

- a. The opportunity to examine before the hearing and, at the expense of the applicant, to copy all documents, records and regulations that are relevant to the hearing. Any document not made available by the Gallup-McKinley County Animal Control Authority, after written request by the applicant, may not be relied upon by the Executive Director at the hearing.
- b. The right to be represented by counsel or other persons chosen as his representative.
- c. The right to present evidence and arguments in support of his appeal to controvert evidence relied on by the Gallup-McKinley County Animal Control Authority, and to confront and cross examine all witnesses on whose testimony or information the Gallup-McKinley County Animal Control Authority relies or introduces.
- d. A decision based solely and exclusively upon the facts presented at the hearing.

52.3.4 The Executive Director shall prepare a written report of his/her findings and issue the decision and report within a reasonable time (not to exceed thirty (30) days) after the hearing and shall provide copies to the parties.

52.3.5 A party who is aggrieved by the decision of the Executive Director may appeal to the Board of the Gallup-McKinley County Animal Control Authority.

- a. The notice of appeal shall be filed in the office of the Executive Director within fifteen (15) days after the written decision is issued. If notice is filed by mail, date of receipt by the Animal Control Authority shall control timeliness of appeal.
- b. A copy of the appeal shall be forwarded by the Executive Director to the Chairperson of the Gallup McKinley County Animal Control Authority.
- c. The Board of the Gallup-McKinley County Animal Control Authority shall set a date for a quasi-judicial hearing on the appeal (as part of a subsequent regular board meeting, or, as a special meeting) as soon as practicable, but in any event within thirty (30) days of receipt of notice of appeal by the Executive Director.
- d. The Board shall review the written findings and decision of the Executive director, review the evidence for and against the decision and, if necessary at the Boards request, hear statements from the aggrieved party and the prevailing party.

DOC# 380514

04/25/2017 02:31 PM Page: 36 of 37  
OR R:\$0.00 H. K. Becenti, McKinley County



- e. The Board shall determine if the decision of the Executive Director should be affirmed or rescinded.
- f. The decision of the Board of the Gallup-McKinley County Animal Control Authority shall be final.

**SECTION 53: SEVERABILITY CLAUSE AND REPEALOR:**

53.1 If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The County Commission hereby declares that it would have passed this Ordinance and each division, section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

53.2 This Ordinance repeals all prior and existing county ordinances governing Animal Control matters of any kind whatsoever; specifically, the prior Ordinance NO. 04-92-043, adopted on April 23, 1992, and recorded with the County Clerk in Book 4 pages 3591 through 3606 is repealed and replaced. This Ordinance shall become effective after its passage, and publication, and recording as provided by law.

PASSED AND ADOPTED this 25<sup>th</sup> day of April, 2017.

McKINLEY COUNTY BOARD OF COMMISSIONERS



Carol Bowman-Muskett, Chairperson



Genevieve Jackson, Commissioner

[SEAL]



Bill Lee, Commissioner

ATTEST:



Harriett K. Becenti, County Clerk



DOCH 380514

04/25/2017 02:31 PM Page: 37 of 37  
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